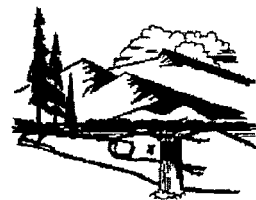


Matthew H. Mead, Governor

# Department of Environmental Quality

*To protect, conserve and enhance the quality of Wyoming's  
environment for the benefit of current and future generations.*



Todd Parfitt, Director

**CERTIFIED MAIL**

October 27, 2014

Mr. Jason Knopp P.E.  
City of Casper  
200 N. David  
Casper, WY 82601

**RE: Notice of Violation, Docket Number 5478-14**

Dear Mr. Knopp:

Enclosed is a copy of Notice of Violation, Docket Number **5478-14**, for the unpermitted discharges of sediment laden construction water into waters of the state during the dredging of a pond located at the Hogadon Ski area which is owned by the City of Casper (Casper). The unpermitted discharges occurred between August and September 2014. The Wyoming Department of Environmental Quality has no record of authorization for these discharges to occur. These are violations of the Wyoming Environmental Quality Act (Act) and the Wyoming Water Quality Rules and Regulations (WWQRR).

Neither the attached Notice of Violation nor this letter constitutes an order.

The WQD appreciates Casper's willingness for quickly responding to the unpermitted discharge which has occurred. The WQD has the authority to resolve violations with an out-of-court settlement agreement through the payment of a penalty by Casper. If Casper wishes to pursue resolution of the previously noted violations through such an agreement, please contact Mr. Kevin M. Wells, Natural Resource Program Supervisor at (307) 777-8669, within 21 days of the date of this letter to set up a meeting to discuss this matter.

Todd Parfitt  
Director  
Department of Environmental Quality

Kevin Frederick  
Administrator  
Water Quality Division

TP/KF/KMW/bb/rm/14-0989

Enclosure: Notice of Violation  
09/30/14 WQD Investigation Report

cc: David Gwisdalla, 8ENF-W-NP, EPA Region 8 (PDF)  
James B. Eisenhauer, WYPDES Inspection Coordinator, Sheridan DEQ Office (PDF)  
Bill J. DiRienzo ► Kevin M. Wells ► Leah J. Coleman (PDF)  
IPS (for scanning) ► Docket **5478-14**  
Landon Brown, WDEQ (PDF File Only)  
DEQ Director



**BEFORE THE**  
**DEPARTMENT OF ENVIRONMENTAL QUALITY**  
**STATE OF WYOMING**

**IN THE MATTER OF THE NOTICE OF  
VIOLATION ISSUED TO:**

**City of Casper  
200 North David  
Casper, WY 82601**

**DOCKET NUMBER 5478-14**

**NOTICE OF VIOLATION**

**NOTICE IS HEREBY GIVEN THAT:**

1. The Wyoming Department of Environmental Quality (WDEQ) Water Quality Division (WQD) recently responded to a complaint and conducted an inspection of the Hogadon Ski Area (Hogadon) "Snow Making Pond" dredging construction project on September 4, 2014. The complaint focused on the discharge of sediment-laden waters to West Fork Garden Creek, a Class 2AB water of the state. Currently all operations associated with the ski area are under the management and ownership of the City of Casper (Casper).
2. On September 4, 2014, Jessica McConnell, WYPDES Inspector, with WDEQ met with Alex Sveda (Associate Engineer), Tyler Nelson (Operations), Doug Follick (Leisure Services Director) and Alan Kieper (Special Facilities Superintendent) (all with Casper) onsite at Hogadon. Dredging of the pond was being conducted to remove sediment ahead of a liner to be installed in the pond. The dredged material was being removed and trucked up the hill to the Hogadon parking area.
3. During the site visit it was noted there was standing water remaining in the pond. Information obtained during the visit indicated the water would be released to West Fork Garden Creek (creek). WQD requested that no water was to be released to the creek until Best Management Practices (BMPs) could be installed to protect the creek from sediment loading. It was also noted Casper had not obtained a WDEQ "General Permit for Temporary Discharge Involving Construction Activities" prior to the start of construction which began in August 2014.
4. On September 5, 2014, WDEQ returned to Hogadon to collect water quality samples. One sample (Hogadon-090514-001) was collected from a portion of West Fork Garden Creek that is diverted around the Hogadon pond (see Photo 3 of the inspection report). Two samples (Hogadon-090514-002 and -902) were collected from the creek drainage immediately north of the pond outlet (see Photo 4 of the inspection report). The fourth sample (Fox-090514-001) was collected from freefalling creek water as it drained into Mrs. Fox's pond, a resident 1.7 miles downstream of the construction site. The results are included below:

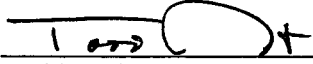
Sample IDs		Hogadon-090514-001	Hogadon-090514-002	Hogadon-090514-902	Fox-090514-001
Sample Time and Date		11:45am, 9/05/14	11:53am, 9/05/14	11:53am, 9/05/14	12:52pm, 9/05/14
Sample Location		42.749520° N, 106.344500° W	42.750470° N, 106.344350° W	42.750470° N, 106.344350° W	42.767078° N, 106.355420° W
Analyte	Total Dissolved Solids (mg/L)	198	203	207	181
	Total Suspended Solids (mg/L)	Non-detect	65	64	15
	Turbidity (NTU)	1.1	39.6	38.2	20.3

Note: GPS coordinates were collected in Datum WGS 84. mg/L is milligrams per liter. NTU is Nephelometric Turbidity Units

5. On September 10, 2014, Mr. Ben Brown, a resident off Garden Creek Road, contacted WDEQ with concerns that his water system had become inundated with sediment and was no longer in operation. Mr. Brown pulls water from West Fork Garden Creek for domestic water use. WDEQ visited with Mr. Brown this same day. He indicated he first observed excessive sediment in the creek on August 5, 2014 and that his water system became inoperable September 5, 2014.
6. On September 15, 2014, Casper contacted WDEQ to inform them that an accidental release of water from the pond had occurred. An employee returning from vacation was not aware of the necessary halt in discharge and opened the dam's gate valve for a period of 6 to 8 hours and subsequently released water and dredged material (sediment) to the creek.
7. On September 22, 2014, WDEQ received a voicemail from Mr. Brown indicating that over the previous weekend, sediment-laden discharge water was being pumped from the Hogadon pond into the creek. WDEQ immediately responded and observed water still being pumped from the pond to the drainage (see photo in the inspection report). WDEQ contacted Mr. Sveda of the City of Casper to inquire about this discharge and he indicated they had attempted to land apply the water but it drained back into the pond. He said they also attempted to hold the water in a secondary pit upstream but it too drained back into the pond. So they opted to pump the water from the pond. At this time WDEQ informed Mr. Sveda that the continued "discharge of processed water was a violation of the Wyoming Water Quality Rules and Regulations (WWQRR)" and Casper was strongly encouraged to discontinue this activity, which they acknowledged.
8. On September 23, 2014 DEQ met with Casper. It was recommended that Casper obtain a temporary general discharge permit. Casper also acknowledged their failure to adhere to WWQRR. As of September 26, 2014, Casper was approved for permit #WYG740462 authorizing the discharge of wastewater associated with construction dewatering activities from the Hogadon pond which includes implementation of BMPs to protect the creek.
9. Sediment laden construction produced water is considered "pollution" as defined in W.S. 35-11-103 (c)(i);
10. The discharges referenced above entered "waters of the state" as defined under W.S. 35-11-103 (c)(vi) through an unpermitted discharge point;
11. By discharging pollution into waters of the state, Casper is in violation of W.S. 35-11-301 (a)(i) and Chapter 2 of the Wyoming Water Quality Rules and Regulations which state that no person, except when authorized by a permit issued by the Department of Environmental Quality, shall cause, threaten or allow the discharge of any pollution or wastes into the waters of the state;
12. This Notice is being sent to you pursuant to W.S. 35-11-701(c)(i), which requires that in any case of the failure to correct or remedy an alleged violation, the Director of the Department of Environmental Quality shall cause a written notice to be issued and served upon the person alleged to be responsible;
13. Pursuant to Wyoming Statute 35-11-901(a), any person who violates, or any director, officer or agent of a corporate permittee who willingly and knowingly authorizes, orders or carries out the violation of any provision of the Environmental Quality Act (Act), or any rule, regulation, standard or permit adopted hereunder or who violates any determination or order of the council pursuant to this act or any rule, regulation, standard, permit, license or variance is subject to a penalty not to exceed ten thousand dollars and no cents (\$10,000.00) for each violation for each day during which the violation continues, a temporary or permanent injunction, or both a penalty and an injunction. The penalty may be recovered in a civil action brought by the Attorney General in the name of the People of the State of Wyoming. Nothing herein shall preclude the department from negotiating stipulated settlements involving the payment of a penalty, implementation of compliance schedules or other settlement conditions, in lieu of litigation.

**NOTHING IN THIS NOTICE OF VIOLATION (NOV)** shall be interpreted to in any way limit or contravene any other remedy available under the Environmental Quality Act, nor shall this NOV be interpreted as being a condition precedent to any other enforcement action.

Signed this 7<sup>th</sup> day of November, 2014.



Todd Parfitt  
Director  
Department of Environmental Quality



Kevin Frederick  
Administrator  
Water Quality Division

**PLEASE DIRECT ALL INQUIRIES TO:** Kevin M. Wells., Natural Resource Program Supervisor at the Wyoming Department of Environmental Quality, Water Quality Division, Herschler Building, 4<sup>th</sup> Floor West, 122 West 25<sup>th</sup> Street, Cheyenne, Wyoming 82002. Telephone 307-777-8669.

TP/KF/KMW/bb/rm/14-0989

cc: David Gwisdalla, 8ENF-W-NP, EPA Region 8 (pdf)  
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